

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

Dated this the 16th Day of April 1998

B E F O R E

THE HON'BLE MR. JUSTICE H.N. NARAYAN

C.R.P. No. 812/1998

Between:

- 1) Kumari Anitha,
Aged about 15 years,
D/o late Sonnappa
- 2) Kumari Bhavya,
aged about 15 years,
D/o late Sonnappa
- 3) Kumari Lavanya,
aged about 11 years,
D/o late Sonnappa
- 4) Kumari Shilpa,
aged about 7 years,
D/o late Sonnappa,

All are residing at Ananthpur
village, Yelahanka Hobli,
Bangalore North Taluk, since the
petitioners are all minors they
are represented by their next
friend Sri Muniswamy, major
residing at Bommanahally,
Bidarahally Hobli,
Bangalore South Taluk.

...Petitioners

(By Sri S. Chamaraya Reddy, Advocate)

A n d :

- 1) Kakkallappa alias Anjanappa,
aged about 52 years,
S/o late Byrappa.

a✓

2) Rajanna,
S/o Kakkalappa
alias Anjanappa,
aged about 42 years.

3) Smt. Radamma,
W/o late Sonnappa,
aged about 40 years.

All the defendants 1, 2, 3,
are residing at Ananthapura
village, yelahanka Hobli,
Bangalore North Taluk.

4) Sri J.M. Issay,
S/o J.Mark,
aged about 35 years,

5) Sri V.Narayana Reddy,
S/o Chenna Reddy,
aged about 41 years,
r/a near Raghavendra Swamy
temple, Jalahalli,
Bangalore South Taluk,
Bangalore-13.

6) Sri Munigaiah,
S/o Dodda veerappa,
major in age,
Resident of Nagenahally,
Bangalore North Taluk.

7) Smt. Chikkamuniyamma,
W/o Muniswamaiah,
major, r/a Kothakur village
K.R.Puram Hobli,
Bangalore South Taluk.

...Respondents

(By Sri S.Vishwamurthy, for C/R1 & R2)

- - - - -

This C.R.P. is filed under Section 115 of CPC
against the order dated 24.2.98 passed in O.S.No.
405/96 on the file of the II Additional Civil Judge
(Senior Division) Bangalore Rural District, Bangalore,
dismissing I.A.4 filed under Section 151 of CPC for
grant of interim maintenance of Rs.4,500/- per month.

2/

This C.R.P. coming on for admission this day, the Court made the following:-

O R D E R

The revision coming on for admission this day, is taken up for final disposal by consent of the parties. Heard and disposed of by this order.

2. It is directed against the order of the Trial Court, dismissing I.A.No. IV filed by the plaintiff who are the minor children of 3rd defendant-respondent claiming the interim maintenance of Rs.4,500/- per month from defendant 1 and 2 who are the plaintiffs' grand-father and uncle respectively.

3. The minor petitioners are represented by the maternal uncle. There is no allegation of desertion by the mother-3rd defendant. This suit is filed by the minor-petitioners represented by maternal uncle during the life time of natural guardian-mother. The reason in filing the said suit by the maternal uncle is not made out prima facie case. Further, allegations are made that the minors were not properly maintained. Therefore, a suit is filed for partition and separte possession. During the pendency of the suit 1st defendant-grand-father has deposited Rs.25,000/- each in Fixed

a ✓

Deposit in the name of 1st and 2nd plaintiff who are aged 15 years. It is claimed by the defendant No.1 & 2 that two other children namely plaintiff 3 and 4 are in the custody of 1st defendant. Though it is disputed at this stage by the mother, it is stated that the first defendant has given the residential house for the mother and children to stay and further deposit Rs.50,000/- in the joint name of the first defendant and mother of the children. Apart from the deposit made in the name of plaintiffs 1 and 2 plaintiffs have requested Rs.4,500/- as interim maintenance and also getting rent from 18 rented premises. Certain claims made by the plaintiff are disputed in the suit. Therefore, the claim made cannot be accepted at this stage. The court below has to see whether the arrangement now made for the maintenance of the children is sufficient for their maintenance. It is admitted by the learned counsel for the respondents that the third respondent in whose custody plaintiffs 1 and 2 of their mother is getting Rs.500/- as maintenance out of the interest accrued. He now submits the interest accrued in fixed deposit of Rs.50,000/- be paid to the children for maintenance. That comes to

3 ✓

about Rs.1,100/- per month. In addition the mother is getting some amount as rent from the rented residential house provided by the 1st defendant. This in my opinion would be sufficient to meet the expenses of the children and the court below is directed to dispose of the matter in accordance with law. Ordered Accordingly.

4. Revision is partly allowed. The 3rd respondent-Radamma is permitted to withdraw the interest accrued from the fixed deposit made in the name of Kumari Anitha & Bhavya deposited in 'Raitara Sahakara Seva Sangha, Singanayakanahalli, Bangalore and also from the deposit of Rs.50,000/- standing in the name of Kakalappa alias Anjanappa and third respondent Radamma. The Trial Court has to expedite the trial and dispose of the suit positively within 6 months.

Sd/-
JUDGE